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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/387,443	09/01/1999	WILLIAM KOPACIEWICZ	550P002CONT.	2583
7590 11/13/2003				
KEVIN S LEMACK NIELDS LEMACK & DINGMAN 176 E MAIN STREET SUITE 8 WESTBORO, MA 01581			EXAMINER FORTUNA, ANA M	
			ART UNIT 1723	PAPER NUMBER

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/387,443

Applicant(s)

KOPACIEWICZ, WILLIAM

Examiner

Ana M Fortuna

Art Unit

1723

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 1-18.

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Ana M Fortuna
Primary Examiner
Art Unit: 1723

Continuation of 5. does NOT place the application in condition for allowance because: the term adhered to the housing, does not necessarily means "not remov albe removable from the housing. See attached additional respond to applicant's remarks..

Response to Remarks:

Applicant argues that neither White or Nochumson et al. teach the membrane adhered to the interior wall of the housing. Applicant's has not responded to the interpretation of the term "adhered" as defined in the dictionary, and applied to the references and to the claims interpretation. The adhesion do not necessarily means "not movable", adhesion can be caused by pressure, e.g. vacuum, or other form of pressure, to keep in place or hold fast as stick, when the pressure is released, the element can be removed from the place, in this particular case from the housing or support. In Nochumson, the filter is contiguous with the housing wall and is touching the wall of the container and held in place by centrifugal pressure during operation. In reference '811, the filter is held or sticks to the wall by friction causing adhesion to the wall of the container or pipette tip. Regarding to arguments pertaining to claims 2 and 12, these claims have been withdrawn from the rejection based on White, however, they are included in the rejection of paper 13, as maintained in the final rejection. Apparently an error was made when reproducing paragraph 2 of paper 13 into the final Office Action. The term contiguous with the lower end has been addressed above, furthermore, the membrane (21) in placed at the lower end of the container (20), which is open to the bottom by means of slits (24).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M Fortuna whose telephone number is (703) 308-3857. The examiner can normally be reached on 9:30-6:00 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'Ana M Fortuna', is positioned above the printed name and title.

Ana M Fortuna
Primary Examiner
Art Unit 1723

AMF